

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
ISAIAH THOMAS WILLOUGHBY
Defendant

| No. CR20-111JCC

PLEA AGREEMENT

The United States of America, by and through Tessa M. Gorman, Acting United States Attorney for the Western District of Washington, and Todd Greenberg, Assistant United States Attorney for said District, Defendant Isaiah Thomas Willoughby, and Defendant's attorneys, Dennis Carroll and Jesse Cantor, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c).

1. Waiver of Indictment. Defendant, having been advised of the right to be charged by Indictment, agrees to waive that right and enter a plea of guilty to the charge brought by the United States Attorney in an Information.

1 2. **The Charge.** Defendant, having been advised of the right to have this
 2 matter tried before a jury, agrees to waive that right and enter a plea of guilty to the
 3 following charge contained in the Information: *Conspiracy to Commit Arson*, in violation
 4 of Title 18, United States Code, Section 371.

5 By entering the plea of guilty, Defendant hereby waives all objections to the form
 6 of the charging document. Defendant further understands that before entering any guilty
 7 plea, Defendant will be placed under oath. Any statement given by Defendant under oath
 8 may be used by the United States in a prosecution for perjury or false statement.

9 3. **Elements of the Offense.** The elements of the offenses to which
 10 Defendant is pleading guilty are as follows:

11 First, Defendant knowingly agreed with at least one other person to commit
 12 an offense against the United States, that is, Arson, in violation of Title 18,
 13 United States Code, Section 844(f)(1) and (i);¹ and

14 Second, Defendant or a co-conspirator committed any act to effect the
 15 object of the conspiracy.

16 4. **The Penalties.** Defendant understands that the statutory penalties
 17 applicable to the offense to which Defendant is pleading guilty are as follows: A
 18 maximum term of imprisonment of five (5) years; a fine of up to \$250,000; a period of
 19 supervision following release from prison of up to three years; and a mandatory special
 20 assessment of \$100 dollars. If a probationary sentence is imposed, the probation period
 21 can be for up to five years.

22 Defendant understands that supervised release is a period of time following
 23 imprisonment during which Defendant will be subject to certain restrictive conditions and
 24 requirements. Defendant further understands that, if supervised release is imposed and

27 28 ¹ The elements of the crime of Arson are: Defendant used means of fire to maliciously damage or destroy, or attempt
 to damage or destroy, a building that was used in interstate or foreign commerce or an activity affecting interstate or
 foreign commerce [§ 844(i)]; or was in whole or in part owned or possessed by an institution or organization
 receiving Federal financial assistance [§ 844(f)(1)].

1 Defendant violates one or more of the conditions or requirements, Defendant could be
2 returned to prison for all or part of the term of supervised release that was originally
3 imposed. This could result in Defendant serving a total term of imprisonment greater
4 than the statutory maximum stated above.

5 Defendant understands that as a part of any sentence, in addition to any term of
6 imprisonment and/or fine that is imposed, the Court may order Defendant to pay
7 restitution to any victim of the offense, as required by law.

8 Defendant further understands that the consequences of pleading guilty may
9 include the forfeiture of certain property, either as a part of the sentence imposed by the
10 Court, or as a result of civil judicial or administrative process.

11 Defendant agrees that any monetary penalty the Court imposes, including the
12 special assessment, fine, costs, or restitution, is due and payable immediately and further
13 agrees to submit a completed Financial Statement of Debtor form as requested by the
14 United States Attorney's Office.

15 **5. Rights Waived by Pleading Guilty.** Defendant understands that by
16 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

- 17 a. The right to plead not guilty and to persist in a plea of not guilty;
- 18 b. The right to a speedy and public trial before a jury of Defendant's
19 peers;
- 20 c. The right to the effective assistance of counsel at trial, including, if
21 Defendant could not afford an attorney, the right to have the Court appoint one for
22 Defendant;
- 23 d. The right to be presumed innocent until guilt has been established
24 beyond a reasonable doubt at trial;
- 25 e. The right to confront and cross-examine witnesses against Defendant
26 at trial;
- 27 f. The right to compel or subpoena witnesses to appear on Defendant's
28 behalf at trial;

1 g. The right to testify or to remain silent at trial, at which trial such
 2 silence could not be used against Defendant; and

3 h. The right to appeal a finding of guilt or any pretrial rulings.

4 **6. United States Sentencing Guidelines.** Defendant understands and
 5 acknowledges that the Court must consider the sentencing range calculated under the
 6 United States Sentencing Guidelines and possible departures under the Sentencing
 7 Guidelines together with the other factors set forth in Title 18, United States Code,
 8 Section 3553(a), including: (1) the nature and circumstances of the offenses; (2) the
 9 history and characteristics of Defendant; (3) the need for the sentence to reflect the
 10 seriousness of the offenses, to promote respect for the law, and to provide just
 11 punishment for the offenses; (4) the need for the sentence to afford adequate deterrence to
 12 criminal conduct; (5) the need for the sentence to protect the public from further crimes
 13 of Defendant; (6) the need to provide Defendant with educational and vocational training,
 14 medical care, or other correctional treatment in the most effective manner; (7) the kinds
 15 of sentences available; (8) the need to provide restitution to victims; and (9) the need to
 16 avoid unwarranted sentence disparity among defendants involved in similar conduct who
 17 have similar records. Accordingly, Defendant understands and acknowledges that:

18 a. The Court will determine Defendant's Sentencing Guidelines range
 19 at the time of sentencing;

20 b. After consideration of the Sentencing Guidelines and the factors in
 21 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to
 22 the maximum term authorized by law;

23 c. The Court is not bound by any recommendation regarding the
 24 sentence to be imposed, or by any calculation or estimation of the Sentencing
 25 Guidelines range offered by the parties or the United States Probation Department,
 26 or by any stipulations or agreements between the parties in this Plea Agreement;
 27 and

1 d. Defendant may not withdraw a guilty plea solely because of the
 2 sentence imposed by the Court.

3 7. **Ultimate Sentence.** Defendant acknowledges that no one has promised or
 4 guaranteed what sentence the Court will impose.

5 8. **Statement of Facts.** The parties agree on the following facts. Defendant
 6 admits Defendant is guilty of the charged offense:

7 On June 12, 2020, at approximately 3:00 a.m., Isaiah Thomas Willoughby
 8 started a fire on the exterior of the SPD East Precinct, located at 1519 12th
 9 Avenue, Seattle. Willoughby approached the East Precinct on foot,
 10 carrying a container filled with gasoline. Willoughby poured the gasoline
 11 onto piled debris lying along the fence next to and against the East Precinct.
 12 The debris consisted of combustible materials, including wood and paper.

13 Willoughby then walked away from the Precinct and returned a few
 14 minutes later. He ignited an object in his hand and threw it onto the doused
 15 debris pile, causing a fire that spread rapidly through the immediate area.
 16 Willoughby walked away from the fire as soon after it ignited. Numerous
 17 bystanders rushed to the scene of the fire and extinguished it by scattering
 18 the burning debris and using handheld fire extinguishers.

19 SPD officers inspected the scene of the fire and observed burn marks on the
 20 sidewalk; scorch marks on a piece of plywood at the base of a window that
 21 had been put up to protect the glass of the East Precinct building; and burn
 22 marks on the frame of the East Precinct door immediately to the right of the
 23 scorched plywood.

24 After he set the fire at the East Precinct, Willoughby told family members
 25 that he did it because he was angry about the way he had been treated by
 26 officers at the East Precinct during a prior arrest.

27 Willoughby learned that the SPD publicly released surveillance images of
 28 him in an effort to identify the perpetrator of the arson. Upon learning this,
 29 Willoughby and another person deleted posts from some of Willoughby's
 30 social media accounts, which were incriminating for Willoughby as to the
 31 arson.

32 However, Willoughby did not delete a Facebook post that he made on
 33 June 9, 2020, a day prior to the arson, which read: "This why Iam [sic] on
 34 the front lines of this Regime change in America if you support my parties

1 then we need you on this I am burn it down." Along with this message,
 2 Willoughby posted a video showing his hands leafing through court
 3 paperwork, including SPD reports and King County Superior Court
 4 documents relating to a June 2018 arrest (by SPD officers) and prosecution
 of Willoughby for robbery and other charges.

5 The East Precinct building is one of the SPD's primary bases of operation
 6 in the City of Seattle. Among other things, the East Precinct provides 24/7
 7 proactive patrol and 911 emergency response to East Seattle, and other
 services including bike patrol, Anti-Crime Teams, Burglary/Theft
 investigation, Community Police Teams and Crime Prevention. The Seattle
 8 Police Department is involved in interstate and foreign commerce and in
 9 activities affecting interstate and foreign commerce, and is also an
 10 institution and organization that receives Federal financial assistance.

11 The parties agree that the Court may consider additional facts contained in
 12 the Presentence Report (subject to standard objections by the parties) and/or
 13 that may be presented by the United States or Defendant at the time of
 sentencing, and that the factual statement contained herein is not intended
 14 to limit the facts that the parties may present to the Court at the time of
 sentencing.

15 **9. Sentencing Factors.** The parties agree that the following Sentencing
 16 Guidelines provisions apply to this case:

17 A base offense level of 24, pursuant to USSG § 2K1.4(a)(1).

18 The government agrees not to advocate for an upward adjustment under
 19 USSG § 3C1.1 (Obstruction of Justice).

20 The parties agree they are free to present arguments regarding the applicability of
 21 all other provisions of the United States Sentencing Guidelines. Defendant understands,
 22 however, that at the time of sentencing, the Court is free to reject these stipulated
 23 adjustments, and is further free to apply additional downward or upward adjustments in
 24 determining Defendant's Sentencing Guidelines range.

25 **10. Acceptance of Responsibility.** At sentencing, if the Court concludes
 26 Defendant qualifies for a downward adjustment acceptance for acceptance of
 27 responsibility pursuant to USSG § 3E1.1(a) and Defendant's offense level is 16 or
 28

1 greater, the United States will make the motion necessary to permit the Court to decrease
 2 the total offense level by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because
 3 Defendant has assisted the United States by timely notifying the United States of
 4 Defendant's intention to plead guilty, thereby permitting the United States to avoid
 5 preparing for trial and permitting the Court to allocate its resources efficiently.

6 **11. Recommendation Regarding Imprisonment.** The government agrees to
 7 recommend a sentence of 36 months of imprisonment. Defendant is free to recommend
 8 any sentence. The parties further agree to jointly recommend that the sentence imposed
 9 in this case be run concurrently with any sentence to be imposed in the Assault case
 10 pending against Defendant in Seattle Municipal Court. Defendant understands that these
 11 recommendations are not binding on the Court and the Court may reject the
 12 recommendation of the parties and may impose any term of imprisonment up to the
 13 statutory maximum penalty authorized by law. Defendant further understands that
 14 Defendant cannot withdraw the guilty plea simply because of the sentence imposed by
 15 the Court. Except as otherwise provided in this Plea Agreement, the parties are free to
 16 present arguments regarding any other aspect of sentencing.

17 **12. Restitution.** Defendant agrees that the Court can order Defendant to pay
 18 restitution to the Seattle Police Department, the victim of Defendant's crimes. Defendant
 19 is aware that the United States will present evidence supporting an order of restitution for
 20 all losses caused by all of Defendant's criminal conduct known to the United States at the
 21 time of Defendant's guilty plea. In exchange for the promises by the United States
 22 contained in this plea agreement, Defendant agrees that Defendant will be responsible for
 23 any order by the District Court requiring the payment of restitution for such losses.

24 a. The full amount of restitution shall be due and payable immediately
 25 on entry of judgment and shall be paid as quickly as possible. If the Court finds
 26 that the defendant is unable to make immediate restitution in full and sets a
 27 payment schedule as contemplated in 18 U.S.C. § 3664(f), Defendant agrees that
 28 the Court's schedule represents a minimum payment obligation and does not

1 preclude the U.S. Attorney's Office from pursuing any other means by which to
 2 satisfy the defendant's full and immediately-enforceable financial obligation,
 3 including, but not limited to, by pursuing assets that come to light only after the
 4 district court finds that the defendant is unable to make immediate restitution.

5 b. Defendant agrees to disclose all assets in which Defendant has any
 6 interest or over which Defendant exercises control, directly or indirectly, including
 7 those held by a spouse, nominee, or third party. Defendant agrees to cooperate
 8 fully with the United States' investigation identifying all property in which
 9 Defendant has an interest and with the United States' lawful efforts to enforce
 10 prompt payment of the financial obligations to be imposed in connection with this
 11 prosecution. Defendant's cooperation obligations are: (1) before sentencing, and
 12 no more than 30 days after executing this Plea Agreement, truthfully and
 13 completely executing a Financial Disclosure Statement provided by the United
 14 States Attorney's Office and signed under penalty of perjury regarding
 15 Defendant's and Defendant's spouse's financial circumstances and producing
 16 supporting documentation, including tax returns, as requested; (2) providing
 17 updates with any material changes in circumstances, as described in 18 U.S.C.
 18 § 3664(k), within seven days of the event giving rise to the changed
 19 circumstances; (3) authorizing the United States Attorney's Office to obtain
 20 Defendant's credit report before sentencing; (4) providing waivers, consents or
 21 releases requested by the U.S. Attorney's Office to access records to verify the
 22 financial information; (5) authorizing the U.S. Attorney's Office to inspect and
 23 copy all financial documents and information held by the U.S. Probation Office;
 24 (6) submitting to an interview regarding Defendant's Financial Statement and
 25 supporting documents before sentencing (if requested by the United States
 26 Attorney's Office), and fully and truthfully answering questions during such
 27 interview; and (7) notifying the United States Attorney's Office before transferring
 28 any interest in property owned directly or indirectly by Defendant, including any

1 interest held or owned in any other name, including all forms of business entities
 2 and trusts.

3 c. The parties acknowledge that voluntary payment of restitution prior
 4 to the adjudication of guilt is a factor the Court considers in determining whether
 5 Defendant qualifies for acceptance of responsibility pursuant to USSG § 3E1.1(a).

6 13. **Abandonment of Contraband.** Defendant also agrees that, if any federal
 7 law enforcement agency seized any illegal contraband that was in Defendant's direct or
 8 indirect control, Defendant consents to the federal administrative disposition, official use,
 9 and/or destruction of that contraband.

10 14. **Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
 11 the United States Attorney's Office for the Western District of Washington agrees to
 12 dismiss the Indictment filed in this matter and not to prosecute Defendant for any
 13 additional offenses known to it as of the time of this Plea Agreement based upon
 14 evidence in its possession at this time, and that arise out of the conduct giving rise to this
 15 investigation. In this regard, Defendant recognizes the United States has agreed not to
 16 prosecute all of the criminal charges the evidence establishes were committed by
 17 Defendant solely because of the promises made by Defendant in this Agreement.
 18 Defendant agrees, however, that for purposes of preparing the Presentence Report, the
 19 United States Attorney's Office will provide the United States Probation Office with
 20 evidence of all conduct committed by Defendant. Defendant agrees that any charges to
 21 be dismissed before or at the time of sentencing were substantially justified in light of the
 22 evidence available to the United States, were not vexatious, frivolous or taken in bad
 23 faith, and do not provide Defendant with a basis for any future claims under the "Hyde
 24 Amendment," Pub. L. No. 105-119 (1997).

25 15. **Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if
 26 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea
 27 Agreement and Defendant may be prosecuted for all offenses for which the United States
 28 has evidence. Defendant agrees not to oppose any steps taken by the United States to

1 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
 2 Agreement. Defendant also agrees that, if Defendant is in breach of this Plea Agreement,
 3 Defendant has waived any objection to the re-institution of any charges that previously
 4 were dismissed or any additional charges that had not been prosecuted.

5 Defendant further understands that if, after the date of this Agreement, Defendant
 6 should engage in illegal conduct, or conduct that violates any conditions of release or the
 7 conditions of confinement (examples of which include, but are not limited to, obstruction
 8 of justice, failure to appear for a court proceeding, criminal conduct while pending
 9 sentencing, and false statements to law enforcement agents, the Pretrial Services Officer,
 10 Probation Officer, or Court), the United States is free under this Plea Agreement to file
 11 additional charges against Defendant or to seek a sentence that takes such conduct into
 12 consideration by requesting the Court to apply additional adjustments or enhancements in
 13 its Sentencing Guidelines calculations in order to increase the applicable advisory
 14 Guidelines range, and/or by seeking an upward departure or variance from the calculated
 15 advisory Guidelines range. Under these circumstances, the United States is free to seek
 16 such adjustments, enhancements, departures, and/or variances even if otherwise
 17 precluded by the terms of the Plea Agreement.

18 **16. Waiver of Appellate Rights and Rights to Collateral Attacks.** Defendant
 19 acknowledges that, by entering the guilty pleas required by this plea agreement,
 20 Defendant waives all rights to appeal from Defendant's conviction, and any pretrial
 21 rulings of the Court, and any rulings of the Court made prior to entry of the judgment of
 22 conviction. Defendant further agrees that, provided the Court imposes a custodial
 23 sentence that is within or below the Sentencing Guidelines range as determined by the
 24 Court at the time of sentencing, Defendant waives to the full extent of the law:

25 a. Any right conferred by Title 18, United States Code, Section 3742,
 26 to challenge, on direct appeal, the sentence imposed by the Court, including any
 27 fine, restitution order, probation or supervised release conditions, or forfeiture
 28 order (if applicable); and

1 b. Any right to bring a collateral attack against the conviction and
2 sentence, including any restitution order imposed, except as it may relate to the
3 effectiveness of legal representation.

4 This waiver does not preclude Defendant from bringing an appropriate motion
5 pursuant to 28 U.S.C. § 2241, to address the conditions of Defendant's confinement or
6 the decisions of the Bureau of Prisons regarding the execution of Defendant's sentence.

7 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
8 attacking (except as to effectiveness of legal representation) the conviction or sentence in
9 any way, the United States may prosecute Defendant for any counts, including those with
10 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea
11 Agreement.

12 17. **Voluntariness of Plea.** Defendant agrees that Defendant has entered into
13 this Plea Agreement freely and voluntarily, and that no threats or promises were made to
14 induce Defendant to enter a plea of guilty other than the promises contained in this Plea
15 Agreement or set forth on the record at the change of plea hearing in this matter.

16 18. **Statute of Limitations.** In the event this Plea Agreement is not accepted by
17 the Court for any reason, or Defendant breaches any of the terms of this Plea Agreement,
18 the statute of limitations shall be deemed to have been tolled from the date of the Plea
19 Agreement to: (1) thirty days following the date of non-acceptance of the Plea
20 Agreement by the Court; or (2) thirty days following the date on which a breach of the
21 Plea Agreement by Defendant is discovered by the United States Attorney's Office.

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1 19. **Completeness of Agreement.** The United States and Defendant
2 acknowledge that these terms constitute the entire Plea Agreement between the parties,
3 except as may be set forth on the record at the change of plea hearing in this matter. This
4 Agreement binds only the United States Attorney's Office for the Western District of
5 Washington. It does not bind any other United States Attorney's Office or any other
6 office or agency of the United States, or any state or local prosecutor.

7 Dated this 9th day of June, 2021.

8
9 */s Isaiah Thomas Willoughby (per approval)*
10 ISAIAH THOMAS WILLOUGHBY
11 Defendant

12 */s Dennis Carroll*
13 DENNIS CARROLL
14 Attorney for Defendant

15 */s Jesse Cantor*
16 JESSE CANTOR
17 Attorney for Defendant

18 */s Todd Greenberg*
19 TODD GREENBERG
20 Assistant United States Attorney